981.

SUPREME COURT OF THE UNITED STATES.

No. 69.

WASHINGTON BRIDGE COMPANY, APPELLANT,

vs.

WM. STEWART ET AL.

ON APPEAL FROM THE CIRCUIT COURT U. S. FOR WASHINGTON, D. C.

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DISTRICT OF COLUMBIA, *to wit:*

The United States of America to William Stewart, James Stewart, and John Glenn, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, on the Monday of August next, pursuant to an appeal from the decree of the circuit court of the District of Columbia, sitting as a court of equity for Washington county, in a cause wherein you were complainants, and the Washington Bridge Company was defendant, and show cause, if you can, why the said decree should not be corrected, and why speedy justice should not be done to the parties in this behalf.

Witness, the Hon. Buckner Thruston, judge of the circuit court of the District of Columbia.

Issued this eleventh day of June, 1842.

B. THRUSTON.

Style of court.

DISTRICT OF COLUMBIA, *to wit:*

At a circuit court of the District of Columbia, begun and held in and for the county of Washington, at the city of Washington, on the fourth Monday of March, being the twenty-eighth day of the same month, in the year of our Lord one thousand eight hundred and forty-two, and of the independence of the United States the sixty-sixth.

Present: The honorable William Cranch, chief judge; Buckner Thruston and James S. Morsell, assistant judges; Alexander Hunter, esquire, marshal; William Brent, clerk.

In the record of the proceedings of the said court, among others, are the following, to wit:

WILLIAM STEWART, JOHN GLENN et al., } Parties.
vs. }
THE WASHINGTON BRIDGE CO. }

Be it remembered, that heretofore, to wit, on the 19th day of May, anno domini 1833, the said complainants, by Richard S. Coxe, esquire, their solicitor, filed in court here the following bill of complaint:

Bill of complaint.

To the honorable the judges of the circuit court of the district of Columbia, in and for the county of Washington, sitting as a court of equity:

Humbly complaining, show unto your honors, your orators, William Stewart, James Stewart, and John Glenn, stockholders in the

stock of the Washington Bridge Company, in behalf of themselves and others, stockholders in said company, who shall come in and seek relief by, and contribute to, the expense of this suit; that by an act of Congress, approved on the 5th day of February, in the year of our Lord eighteen hundred and eight, a board of commissioners therein named was created and constituted, with full power and authority to open, or cause to be opened, books for receiving and entering subscriptions for raising a capital stock, not exceeding two hundred thousand dollars, in shares of one hundred dollars each, for the purpose of erecting a bridge over the river Potomac, between the city of Washington and Alexander's island, and for the other objects and purposes stated and designated in and by such act of Congress, as, reference being thereunto had, will more fully and at large appear.

And your orators further show, that in and by said act of Congress it was further provided, that whenever nineteen hundred of the said shares be subscribed for, all who may then be, or thereafter may become, the actual holders or proprietors of shares in the said capital stock, should be, and they were thereby, made and created a body politic and corporate, by the name and style of the Washington Bridge Company.

And your orators further show, that by the terms and conditions of said charter, or act of incorporation, the said Washington Bridge Company did in part become a body politic and corporate, and your orators did become, and now are, proprietors of stock in said company, members of the said body politic and corporate, and as such entitled to a full participation, in proportion to their respective interests, in and to all the advantages, privileges, emoluments, property, and benefits thereof.

And your orators further show unto your honors, that your orators were owners of said stock, and members of the said body politic and corporate, on and before the fourteenth day of July, in the year eighteen hundred and thirty-two. And they further show, that by an act of Congress, approved on the said fourteenth day of July, in the year eighteen hundred and thirty-two, the Secretary of the Treasury of the United States was authorized and required, upon the performance of certain conditions and stipulations therein mentioned and prescribed, to pay to the said Washington Bridge Company the sum of twenty thousand dollars.

And your orators further show, that all the conditions and stipulations prescribed in and by said act, as those upon which the said payment was to be made, were in fact performed and fulfilled, and the said sum of twenty thousand dollars was in fact, and in pursuance of said act of Congress last mentioned, paid over by the said Secretary of the Treasury to the said company.

And your orators further show unto your honors, that in and by said last mentioned act of Congress, it was further provided, that said company should apply and distribute the said sum of twenty

thousand dollars in the following manner, that is to say, first to reimburse the expenses incurred by the said company, since the last adjournment of Congress, to the stockholders advancing the same; and the balance among the stockholders, pro rata, on the cost of each share, to the present holders thereof, to be ascertained by the company, if necessary, by the oath or affirmation of the present holder. All of which provisions of said act of Congress will more fully and more particularly appear by reference to the same. And your orators pray that they be had and taken as part of this their bill.

And your orators have heard and believe, that the said Washington Bridge Company, or some members of the same, purporting to be the said company, and to act as the same, have actually received the said sum of twenty thousand dollars from the said Secretary of the Treasury, and have applied the part thereof to the reimbursement of the expenses incurred by the said company since the then last adjournment of Congress. And they allege and charge, that all the residue of said twenty thousand dollars was held by the said company in trust for the benefit of all the then stockholders of said company, agreeably to the provisions of said act of Congress. But your orators aver, that although they were then, and still are, legally and justly stockholders in said company, and members of the said body politic or corporate, and as such entitled to their share or proportion of said money, the said company, or the said persons acting or professing to act as said company, have, although often requested, refused to recognise the rights of your orators, or any of them; have refused to allow or permit them to attend and be present at, and vote at the meetings of the stockholders of said company; or to inform them, or any of them, of the amount so appropriated to reimburse the expenses incurred by said company, and provided for in the said act of Congress; or to permit or suffer your orators, or any of them, to see or read the books and minutes of proceedings of said company; or to ascertain how much of the balance remaining unpaid belongs to them, or either of them, or to pay over to them, or any of them, their proportion of what is so held by said company in trust for said stockholders, and your orators as aforesaid. But under some unjust, false, and illegal pretences, they at times allege, that your orators never were stockholders in said company, or members of said body politic or corporate; at other times, that by some act or acts or proceedings of said company, they have forfeited and lost their rights and privileges as such stockholders; and at other times, that they, the said company, hold no money in trust for the said stockholders in general, and your orators in particular. All which acts and doings of the said Washington Bridge Company are inequitable and unjust, and tend to the manifest injury of your orators.

For as much therefore as your orators are utterly remediless, at and by the strict rules of common law in the premises, but can only have relief in this honorable court, sitting as a court of chancery.

To the end, therefore, that the said Washington Bridge Company may true, fully and perfect answer make, to all and singular the premises, as fully as if the same were here again repeated, and they thereto specially and particularly interrogated, and may particularly set forth whether your orators, and each of them, were not, and when, stockholders in said company, and members of the said body politic or corporate, and all the grounds and proceedings upon which it is now alleged and pretended that they, or either, or any of them, have forfeited said rights; and that they may set forth and show a particular account of the sum received from the United States, under the said act or acts of Congress, and how the same has been paid or applied, and how much thereof remains unexpended; and that they may be required to produce all the books and proceedings of the said company, for the inspection and use of your orators; and that they may ascertain and exhibit what amount of the said balance is applicable to your orators' demands; and that they may be directed by your *orators* to pay over the same, in conformity with the trust created and declared in and by said act of Congress; and that your orators may have other and further relief, as, the premises considered, may appear to your honors to be consistent with equity and good conscience. May it please your honors, the premises being considered, to grant unto your orators the United States writ of subpœna, to be directed to the said Washington Bridge Company, and to Frederick May, the president, and John H. Riley, the treasurer of the same, commanding them to be and appear, &c.

COXE & CALVERT, *for Complainants.*

Whereupon, subpœna issued as prayed, returnable to the fourth Monday of March then next.

March term, 1833.

At which said fourth Monday of March, in the year of our Lord one thousand eight hundred and thirty-three, came into court here the said complainants, by their solicitors aforesaid, and the marshal of the district aforesaid, to whom the said subpœna was directed, makes return thereof to the court here, thus endorsed, to wit:

Marshal's return and defendant's appearance.

"Summoned Dr. May, president, and Judge Cranch.
"H. ASHTON, *Marshall.*"

Thereupon, the said defendant, being so forewarned, appeared in court here, by Richard Wallack, esq., its solicitor, and, thereupon, the said cause was regularly continued at rules until the first Monday of May, A. D. 1833, when the said parties, by their solicitors aforesaid, entered into the following agreement to invest the money then in hand in corporation stock, bearing interest, &c.

Agreement to invest money in corporation stock.

WILLIAM STEWART & al.
vs.
THE WASHINGTON BRIDGE CO.

It is by consent of the parties ordered, that the money which remains in the hands of the defendants, awaiting the decision of this cause, shall be by the defendants immediately invested in the stock of the corporation of Washington, bearing interest, and subject to the future order of the court.

RICHARD WALLACK, *for Defts.*
RICHARD S. COXE, *for Plffs.*

MAY 2, 1833.

Thereupon the said cause was regularly continued at rules until the first Monday of March, A. D. 1834, when the said defendants, by their solicitor aforesaid, filed in court here the following answer and exhibits, to wit:

Defendant's Answer.

The answer of the Washington Bridge Company to the bill of complaint of William Stewart, James Stewart, and John Glenn.

The said Washington Bridge Company, reserving all benefit of exception to uncertainties, insufficiencies, imperfections and untruths, in the complainants' bill contained, for answer to so much thereof as it is bound to answer, says:

That it was constituted a body politic and corporate by the act of Congress of the 5th of February, in the year 1808, for the purposes therein mentioned, which act is referred to and prayed to be taken as part of this answer; that two thousand shares of stock were subscribed, and the bridge was erected in the manner provided for in and by the said act; that eight of the said shares were duly forfeited to the company on the first day of June, 1809, for non-payment of the instalments then due thereon, none of which said eight forfeited shares whatever did, at any time, belong to the complainants, or any of them; that by the first section of the said act, the subscription was to be for raising a capital stock not exceeding two hundred thousand dollars, in shares of one hundred dollars each, for the purpose of erecting a bridge, &c., and making such other incidental works, and defraying such other incidental expenses, as should be required by that act, or deemed necessary or expedient by the company; that by the fourth section of the said act, it is provided that the said company shall have power to prescribe and regulate the powers and duties of the said directors, and of all other officers of the company—"and the directors of the said company, to be elected in pursuance of this act, shall, unless sooner displaced by the said company, continue in office until the first Monday of January succeeding their election, and from that time until a new election shall be made by the company."

The said company further answering, saith: That at the first meeting of the stockholders, duly held in the city of Washington on the 2d of May, 1808, the said company made a "by-law, prescribing the powers and duties of the directors of the Washington Bridge Company, and for other purposes," by which it was enacted "that all the powers and duties conferred on, or assigned to, the said company by the act of incorporation, and not hereinafter specified or excepted, be and the same hereby are conferred on, or assigned to, the directors, or a majority of them;" and the said company saith, the powers and duties thereinafter specified or excepted related only to the compensation to the directors and other officers of the company, to the bond and security to be required of the treasurer, and to the depositing and drawing money, as will more fully appear by a copy of the said by-law, herewith exhibited and marked No. 1.

Copy of the By-law.

Exhibit No. 1.

A by-law prescribing the powers and duties of the directors of the Washington Bridge Company, and for other purposes—passed 2d of May, 1808.

Be it enacted by the Washington Bridge Company, that all the powers and duties conferred on, or assigned to, the said company, by an act entitled "An act authorizing the erection of a bridge over the river Potomac, within the District of Columbia," and not hereinafter specified or excepted, be and the same hereby are conferred on, or assigned to, the directors, or a majority of them.

Sec. 2d. And be it enacted, that the directors shall receive no compensation for their services; that the treasurer shall receive in compensation for his services, at a rate not exceeding two hundred dollars per annum, until the first day of January next, or until the next legal meeting of the company; and that the clerk shall receive in compensation for his services, for the same period, at a rate not exceeding three hundred dollars per annum—the sum in both cases to be fixed by the directors.

Sec. 3d. And be it enacted, that the fixing the compensation allowed to the treasurer and clerk, subsequent to the periods recited in the section, be reserved to the company.

Sec. 4th. And be it enacted, that the treasurer shall, before he enters on the duties of his office, give bond to the company jointly, with two sufficient sureties, to be approved by the directors, in the sum of twenty-five thousand dollars.

Sec. 5th. And be it enacted, that all the moneys received by the treasurer shall be forthwith deposited in some one or more banks within the District of Columbia, in the name, and subject only to the draft of the directors, signed by their president and attested by the clerk.

Truly copied from the record book of the Washington Bridge Company, 19th March, 1834.

JOHN H. REILY,
Clerk and Treasurer.

Which said by-law has ever since remained in full force, and is prayed to be taken as a part of this answer. And the said company further saith, that by the 8th section of their said act of incorporation, it is provided "that the amount of each share shall be paid by instalments of ten dollars, at such times as the said company shall direct. And in case any instalment or instalments shall not be paid at the time appointed by the said company, or within ten days thereafter, the same may be recovered in the name of the said company, by warrant from a justice of the peace, if the amount due shall not exceed twenty dollars; and if the sum due shall exceed twenty dollars, the same may be recovered by motion, in the name of the said company, on ten day's notice, in any court of record in the county or district, where the debtor shall be found; and in all such warrants and motions, the certificate of the clerk of the said company, authenticated by the President under the common seal of the said company, shall be conclusive evidence of the defendant being a member of the company, and prima facie evidence of the amount due, on the shares held by such defendant; and if such instalment or instalments be not paid within sixty days after the time limited for the payment of the same, and advertised for four weeks successively in one or more gazettes published in Washington, Alexandria or Georgetown, the president and directors of the said company may proceed to forfeit, for the use of the said company, the share or shares of the persons so failing to pay."

And the said company further saith, that by the 13th section of their said act of incorporation, it was made the duty of the company to keep the bridge in good repair, under a penalty of $500; and by the 12th section, if it should remain so out of repair for two years, as to be unsafe for *travelling*, the company would be liable to forfeit its charter.

And the said company further saith, that on or about the 23d day of February, in the year 1831, a very large part of the said bridge was broken up and carried away by the ice and flood, so that in order to repair the same, it became necessary for the company to call upon the stockholders to pay an instalment of ten dollars on each share of the stock. That, accordingly, there having been only five instalments of the capital stock (of ten dollars on each share) before called for, the company at a meeting of the stockholders duly held in the city of Washington, on Friday the eighth day of April, 1831, after having authorized the president and directors to repair the bridge, unanimously resolved and ordered as follows, viz: That the president and directors be authorized to borrow, on the credit of the company, the moneys which they

may deem necessary for repairing the bridge, not exceeding twenty thousand dollars, and in case of not obtaining such loan or loans, that they are directed to call for an instalment of ten dollars on each share; the said instalment, if called for, to be payable on the first Monday of May next, to the treasurer of the company. It being understood, that as the whole of this sum will not then be wanted, no suit will be instituted, or forfeiture incurred in respect to proprietors who shall, on each share, pay on that day one dollar, and a like sum on the first Monday of every month thereafter. And in case any proprietor shall pay a sum beyond the amount so payable on the first Monday of each month, he shall be allowed a discount for such anticipated payment, at the rate of six per cent. per annum, as will more fully appear by reference to a copy of the notice, advertisement, and proceedings of the said meeting herewith exhibited, marked (No. 2,) which is prayed to be received and taken as part of this answer.

And the said company further saith, that the president and directors not having been able to borrow, on the credit of the company, the moneys which they deemed necessary for repairing the bridge, not exceeding twenty thousand dollars, proceeded on the 22d day of April, 1831, as directed by the said resolve of the stockholders of the 8th of April, to call for an instalment of ten dollars on each share of stock, payable on the first Monday of May, 1831, to the treasurer of the company, and caused the same to be advertised four weeks successively in the gazette, called the National Intelligencer, published in Washington, and in the Phœnix Gazette, published in Alexandria; as will more fully appear by a copy of the advertisement and certificate herewith exhibited, marked (No. 3,) and prayed to be taken as part of this answer; that the said complainants were at that time, to wit: On the said first Monday in May, 1831, and continued to be, until the forfeiture of their respective shares, as hereinafter mentioned, stockholders in the said company, that is to say, the said William Stewart held fifty shares, the said James Stewart twenty-five shares, and the said John Glenn one hundred and fifty-six shares.

And the said company further saith, that although the said instalment was called for, payable on the first Monday in May, 1831, yet it was understood, and so advertised, that as the whole sum would not be then wanted, no suit would be instituted, or forfeiture incurred, in respect to the proprietors who should on that day pay one dollar on each share, and the like sum on the first Monday of every month thereafter; so that, in effect, the payments were extended over ten months, viz: to the first Monday of February, 1832.

And the said company further saith, that neither of the complainants having paid any part of the said instalment, upon any of the shares by them respectively held, they were, and each of them was, in the month of September, 1831, by a printed circular letter, signed by the treasurer of the said company, by the order of the

president and directors thereof, notified of the amount then due from each of them respectively, and requested to pay the same forthwith, and thereafter, to pay with punctuality, the sums that would become payable on the first Monday of the succeeding months. At the foot of which circular letters were stated the sums respectively due, and to become payable, on account of the said instalment. Copies of which circular letters are herewith filed, marked (No. 4,) (No. 5,) and (No. 6,) and prayed to be taken as part of this answer.

And the said company further saith, that on the 31st day of May, 1832, long after the expiration of the sixty days after the time so limited and advertised for the payment of the said instalment, the said complainants having paid no part thereof on any of the shares so holden by them respectively as aforesaid, and preferring, as it was understood by the president and directors, to forfeit their shares rather than pay any more money upon them, and being indebted to the said company on account of the said instalment, viz: the said William Stewart in the sum of five hundred dollars, the said James Stewart in the sum of two hundred and fifty dollars, and the said John Glenn in the sum of fifteen hundred and sixty dollars, were notified by a printed circular letter, dated on the 29th of May, 1832, and signed by the treasurer of the said company, by order of the president and directors, that their shares would be forfeited unless the payments upon the said instalments should be made within two weeks from that date. These letters were respectively directed to William Stewart, at Annapolis, Md., to James Stewart, at Baltimore, Md., and to John Glenn, at Baltimore, Md., and were put into the post office at Washington, D. C., on the 31st of May, 1832, as will more fully appear by a copy of one of the said circular letters herewith filed, marked (No. 7,) which with the certificate of John H. Reilly, treasurer of the company, written thereon, are prayed to be taken as part of this answer.

And the said company further saith, that after the expiration of two weeks after the said 29th day of May, 1832, the date of the said circular letters last mentioned, viz: on the 21st day of June, 1832, neither of the said complainants having paid any part of the said money due from them respectively, for or on account of the said instalments, the president and directors of the said company proceeded to forfeit, for the use of the said company, the shares of the said stock so held by the complainants respectively, agreeably to the power vested in the said president and directors by the eighth section of the aforesaid act of Congress, of the 5th of February, 1808, they, the said complainants, having failed to pay as aforesaid, as will more fully appear by reference to the proceedings of said president and directors, on the said 21st day of June, 1832, a copy whereof is herewith filed, marked (No. 8,) and prayed to be taken as part of this answer.

And the said company further saith, that after the forfeiture of the said complainants' said shares as aforesaid, to wit: on the 14th

of July, 1832, an act of Congress was passed, entitled "An act providing for the purchase, by the United States, of the rights of the Washington Bridge Company, in the District of Columbia, and for the erection of a public bridge on the site thereof;" by which act it is enacted, that if the company should convey to the United States the bridge, &c., within two calendar months from the passing of that act, which the company was thereby authorized to do, the Secretary of the Treasury should pay the company twenty thousand dollars: provided certain valuers, to be appointed by the President of the United States, should value the property at 20,000 dollars, which said valuers were so appointed, and valued the said property at that sum. And the said company conveyed the same to the United States, and received the said sum of twenty thousand dollars on or about the fifteenth day of August, 1832.

And the said company further saith, that by the 4th section of the said act it was enacted, that the said company should apply and distribute the said sum of twenty thousand dollars, in the following manner, viz: first to reimburse the expenses incurred by the company since the then last adjournment of Congress, to the stockholders advancing the same; and the balance among the stockholders, pro rata on the cost of each share to the then present holder thereof, to be ascertained by the company, if necessary, by oath or affirmation of the then present holder.

And the said company further saith, that neither of the said complainants advanced any part of the expenses incurred by the company after the adjournment of Congress mentioned in the said 4th section of the said act, and that neither of the said complainants was a stockholder in the said company on the said 14th day of July, 1832, when the said act was passed, and therefore that neither of the said complainants is entitled to any part of the said sum of twenty thousand dollars, so received by the said company under the said act, or to call the said company to account therefor. And the said company pray the benefit of so much of this their answer as goes in bar of the relief and discovery sought for by the complainants' bill, as if it had been pleaded thereto.

And the said company further saith, that the complainants had no equitable claim to participate in the said fund of twenty thousand dollars, for they have altogether failed in the discharge of their duty to the company, by withholding their aid when required to repair the bridge, and by laying by to take advantage of the funds and exertions of the other stockholders, if they should be successful, without running the risk of advancing their own money; and thereby so disheartening them as to induce them to sell the bridge to the United States at an immense sacrifice, when, if the complainants (as others who, like them, refused to pay the instalment) had promptly paid it, the bridge would no doubt have been thoroughly and substantially repaired, and the stock would have become very valuable. That many of the stockholders promptly

paid up the instalment as it was required, to the amount of $10,561 55, which sum was expended by the company between the 3d of March, 1831, (which was the end of the session,) and the 14th of July, 1832, the date of the act of Congress aforesaid, and has been reimbursed to the stockholders advancing the same, agreeably to the provisions of the 4th section of the said act; on which sums the stockholders advancing the same have entirely lost the interest that the company had also expended in the repairs of the bridge, the unclaimed dividends of tolls due to the stockholders, to the amount of $568 25, which the company was bound to reimburse—which sums, together with two or three small debts due by the company, being deducted from the said sum of twenty thousand dollars, left the sum of $8,597 98, to be divided among the stockholders, pro rata on the cost of each share to the then present holder thereof, according to the provisions of the said 4th section of the said act of the 14th of July, 1832.

The said company further saith, that having been informed of the claim of the complainants (and some others whose shares had been forfeited as aforesaid) to participate in the said fund, and being willing that their claim should be fairly investigated and decided by any proper judicial tribunal, the said company directed that a dividend of ten per cent. only, upon the cost of each share to the then present holder, should be paid to those stockholders whose shares had not been forfeited as aforesaid, leaving a sum, undistributed, sufficient to pay a like per cent. upon the forfeited shares, if the holders thereof should be entitled thereto—which sum has, by consent of the parties to this suit, been invested in a productive fund, to await the final decision of this cause.

And the said company further saith, that the whole number of shares forfeited on the 21st of June and 12th of July, 1832, for non-payment of the instalments, was 473—the remaining shares, not forfeited, were 1,519.

The preceding statements and admissions are made by the said company, without, in any manner, admitting the right of the complainants, either to the relief or to the discovery which they seek in and by their said bill, and under a protest that the said complainants have no such right, for the said company again denies that the said complainants, or either of them, was or were owner or owners of stock in the said company, on the said fourteenth day of July, in the year eighteen hundred and thirty-two, or at any time thereafter, and admits that the said company has not paid the complainants any part of the said sum of twenty thousand dollars, and has refused to pay them any part thereof, for the reasons aforesaid; and has refused, ever since the said forfeiture of the said shares to recognise the complainants, or either of them, as members of the said company, and has refused to allow or permit them to attend and be present at, and to vote at, the meetings of the stockholders of the said company, and to inform them of the

amount appropriated to reimburse the expenses incurred by the said company, and provided for in the said act of Congress, and to permit them to see and read the books and minutes of proceedings of the said company, or to ascertain the balance remaining unpaid, as the said company is advised it had a right to do.

Wherefore the said company, denying all fraud and combination, prays to be hence dismissed with costs, &c.

In witness whereof, and that the above and foregoing is the answer of the said Washington Bridge Company, I, Frederick May, president thereof, have hereunto affixed [SEAL.] the corporate seal of the said company, and do hereunto subscribe my name, this eighteenth day of March, eighteen hundred and thirty-four.

FRED'K MAY,
President of the Washington Bridge Company.
JOHN H. REILY,
Clerk and Treasurer.

Exhibit No. 1—(*Exhibit No.* 1.)

A by-law prescribing the powers and duties of the directors of the Washington Bridge Company, and for other purposes, (passed 2d May, 1808:)

Be it enacted by the Washington Bridge Company, That all the powers and duties conferred on or assigned to the said company, by an act entitled, "An act authorizing the erection of a bridge over the river Potomac, within the District of Columbia, and not hereinafter specified or excepted, be, and the same hereby are, conferred on or assigned to the directors, or a majority of them.

SEC. 2d. And be it enacted, That the directors shall receive no compensation for their services; that the treasurer shall receive in compensation for his services, at a rate not exceeding two hundred dollars per annum, until the first day of January next, or until the next legal meeting of the company; and that the clerk shall receive in compensation for his services for the same period, at a rate not exceeding three hundred dollars per annum; the sum in both cases to be fixed by the directors.

SEC. 3d. And be it enacted, That the fixing the compensations allowed to the treasurer and clerk, subsequent to the periods recited in the second section, be reserved to the company.

SEC. 4th. And be it enacted, That the treasurer shall, before he enters on the duties of his office, give bond to the company, jointly with two sufficient sureties, to be approved by the directors, in the sum of twenty-five thousand dollars.

SEC. 5th. And be it enacted, That all the moneys received by the treasurer shall be forthwith deposited in some one or more banks within the District of Columbia, in the name, and subject only to the drafts of the directors, signed by their President, and attested by the clerk.

Truly copied from the record book of the Washington Bridge Company.

JOHN H. REILY, *Clerk and Treasurer.*

19*th March*, 1834.

Exhibit No. 2—(*Exhibit No.* 2.)

A meeting of the Washington Bridge Company was held on Friday, the 8th day of April, 1831, at 11 o'clock in the forenoon; present the following stockholders in person, or by proxy, viz. (See schedule annexed, amounting to 1,386 shares, being two-thirds, and more of the whole number of shares. Daniel D. Arden was appointed chairman, and J. B. Ladd, secretary.

The annexed original notice of the meeting was produced, and its due publication authenticated:

It was shown that the call for the meeting was at the instance and request of one-third of the whole number of stockholders.

On motion, it was

Resolved, That the president and directors of the company be, and they are hereby, authorized to repair the Washington bridge.

And, on motion, it was further unanimously

Resolved and ordered, That the president and directors be authorized to borrow, upon the credit of the company, the moneys which they may deem necessary for repairing the bridge, (not exceeding twenty thousand dollars,) and in case of not obtaining such loan or loans, that they are directed to call for an instalment of ten dollars on each share. The said instalment, if called for, to be payable on the first Monday of May next, to the treasurer of the company; it being understood that as the whole of this sum will not be then wanted, no suit will be instituted, or forfeiture incurred, in respect to proprietors who shall, on each share, pay on that day one dollar, and a like sum on the first Monday of every month thereafter; and in case any proprietor shall pay a sum beyond the amount so payable on the first Monday of each month, he shall be allowed a discount, for such anticipated payment, at the rate of six per cent. per annum.

Attest—(Signed) J. B. LADD, *Sec'y.*

(Signed) D. D. ARDEN, *Chairman.*

List of Stockholders, 18*th August*, 1831.

Schedule or list of stockholders present at the meeting of the company, on the 8th of April, 1831:

Arden, Daniel D.	7 shares.
Bank of Washington	206 do.
Bank of Potomac	3 do.
Bradley, W. A.	105 do.
The same, trustee	12 do.
Butler, Lawrence, (estate)	20 do.

Bomford, George	10	shares.
Brent, William	5	do.
Burns, Benjamin	8	do.
Cazenove, Anthony C.	35	do.
Coyle, John, sr.	30	do.
Ingle, Henry	10	do.
Ladd, Sarah E.	24	do.
Ladd, Sarah	16	do.
Keith, James	114	do.
May, Fred'k	203	do.
May, Smith and Bradley	190	do.
McKenna, James L.	17	do.
Miller, Mord'a	9	do.
Reily, S. W.	10	do.
Rotchford, Barth'l	5	do.
Smith, S. H.	120	do.
Smith, Richard	170	do.
Taylor, Thomas	10	do.
Weightman, R. C.	47	do.
	Shares 1,386	

Truly copied from the record book of the Washington Bridge Company, 19th March, 1834.

JOHN H. REILY, *Clerk and Treasurer.*

Washington Bridge Company.

Notice is hereby given to the proprietors of shares in the Washington Bridge Company, that a meeting of the said company will be held at the City Hall in Washington city, on Friday, the eighth day of April next, at 11 o'clock, A. M., to take measures for repairing the said bridge; and any other business pertaining to the said company.

By order of the board of directors, and the proprietors of one-third of the shares subscribed for.

FRED'K MAY,
President of the Washington Bridge Company.

March 17 *a April* 8.

(Phœn. Gaz.)

OFFICE NATIONAL INTELLIGENCER,
November 30*th*, 1836.

We hereby certify that the advertisement, of which the above is a true copy, was inserted in the National Intelligencer, daily, from the 17th day of March, 1831, to the 8th day of April following.

GALES & SEATON.

Exhibit No. 3.—(*Exhibit No.* 3.)

At a meeting of the stockholders of the Washington Bridge Company, held on Friday the 8th day of April, 1831, it was

Resolved, That the president and directors be directed to call on the stockholders for an instalment of ten dollars on each share, the said instalment to be payable on the first Monday of May next to the treasurer of the company, at the Bank of Washington, in Washington city. It being understood that, as the whole of this sum will not then be wanted, no suit will be instituted, or forfeiture incurred, in respect to proprietors who shall on each share pay on that day one dollar, and a like sum on the first Monday of every month thereafter.

And in case any proprietor shall pay a sum beyond the amount so payable on the first Monday of each month, he shall be allowed a discount, for such anticipated payment, at the rate of six per cent. per annum.

Now, therefore, in pursuance of the above directions, the stockholders of the Washington Bridge Company are hereby notified, that an instalment of ten dollars on each share is now called for, payable in the manner set forth in the above resolution.

By order of the president and directors.

JNO. H. REILY, *Treasurer.*

April 22*d*, 1831.

The Alexandria Gazette will publish the above daily for one month.

OFFICE NAT. INTELLIGENCER, *Feb.* 19, 1834.

We hereby certify that the advertisement, of which the foregoing is a true copy, was published in the National Intelligencer, daily, for one month, commencing April 22, 1831.

For GALES & SEATON,
THO'S DONOHO.

Exhibit No. 4.—(*Exhibit No.* 4.)

CITY OF WASHINGTON, 12*th Sept.*, 1831.

You are hereby requested to pay, forthwith, the annexed sum due on your stock in the Washington Bridge Company, agreeably to the public notice heretofore given; and hereafter to pay, with punctuality, the sums that shall be payable on the first Monday in each month.

By order of the President and directors.

JOHN H. REILY,
Treasurer and clerk of the Wash. Bridge Company.

The amount now due is $250.

The amount payable on the first Monday in each month is $50.

W. STEWART.

18*th February*, 1834.

A printed notice similar to the above was deposited in post-office, Washington, directed to W. Stewart, Annapolis, Md., during the month of September, 1831.

JNO. H. REILY,
Tr. W. B. Co.

Exhibit No. 5.—(*Exhibit No.* 5.)

CITY OF WASHINGTON, 12*th Sept.*, 1831.

You are hereby requested to pay, forthwith, the annexed sum due on your stock in the Washington Bridge Company, agreeably to the public notice heretofore given; and hereafter to pay, with punctuality, the sums that shall be payable on the first Monday in each month.

By order of the president and directors.

JNO. H. REILY,
Treasurer and clerk of the Washington Bridge Comp.

The amount now due is $125.

The amount payable on the first Monday of each month is $25.

JAMES STEWART.

18*th February*, 1834.

A printed notice similar to the above was deposited in post-office, Washington, directed to James Stewart, Baltimore, Md., during the month of September, 1831.

JNO. H. REILY,
Treasurer W. Bridge Company.

Exhibit No. 6.—(*Exhibit No.* 6.)

CITY OF WASHINGTON, 12*th Sept.*, 1831.

You are hereby requested to pay, forthwith, the annexed sum due on your stock in the Washington Bridge Company, agreeably to the public notice heretofore given; and hereafter to pay, with punctuality, the sums that shall be payable on the first Monday in each month.

By order of the president and directors.

JNO. H. REILY,
Treasurer and clerk of the Washington Bridge Comp.

The amount now due is $780.

The amount payable on the first Monday of each month is $156.

JOHN GLENN.

18*th February*, 1834.

A printed notice similar to the above was deposited in post-office, Washington, directed to Jno. Glenn, Baltimore, Md., during the month of September, 1831.

JNO. H. REILY,
Tr. W. B. Co.

Exhibit No. 7.—(*Exhibit No.* 7.)

WASHINGTON, *May 29th*, 1832.

SIR: You will please to take notice that, at a meeting of the board of directors of the Washington Bridge Company held this day, the following resolution was adopted:

Resolved, that those stockholders who have made no payment on the instalment lately called for, be advised by letter that their shares will be forfeited, unless such payments be made within two weeks from this date.

Respectfully,

JNO. H. REILY,
Treasurer of the W. Bridge Company.

I hereby certify that similar printed notices to the above were deposited in the post-office at Washington city, D. C., on the 31st day of May, 1832, directed to James Stewart and John Glenn, Baltimore, Md., and to William Stewart, Annapolis, Md.

JNO. H. REILY,
Treasurer of the W. Bridge Company.

Exhibit No. 8.—(*Exhibit No.* 8.)

21*st June*, 1832.

The president and directors met according to adjournment—all present.

The treasurer having given the notice required at the last meeting to delinquent stockholders, of the resolutions then adopted, the following preamble and resolution *was* unanimously adopted:

Whereas, the Washington Bridge Company, at a meeting of the stockholders duly called and holden on the 8th day of April, 1831, at the aldermens' chamber in the City Hall, within the city of Washington, (the place and time of the said meeting having been previously advertised for three weeks successively in the National Intelligencer, being a gazette in the city of Washington,) required an instalment of ten dollars upon each share of the stock of the said company, to be paid to the treasurer of the company on or before the first Monday of February, 1832, of which due notice was given, by advertisement, more than four weeks successively in the National Intelligencer, a gazette published in the city of Washington; and whereas, more than sixty days have expired since the time so limited for the payment of the said instalment, and advertised for four weeks successively in the said National Intelligencer, and no part of the said instalment has been paid upon the following shares, that is to say, upon

20 shares standing on the books of the company in name of Robert Brent.

10 shares standing on the books of the company in name of Jas. Claxton.

7 shares standing on the books of the company in name of G. Coombe.

156 shares standing on the books of the company in name of John Glenn.

4 shares standing on the books of the company in name of Rezin Orme.

60 shares standing on the books of the company in name of R'd Smith, for Daniel Carroll of Dn.

50 shares standing on the books of the company in name of William Stewart.

25 shares standing on the books of the company in name of Jas. Stewart.

17 shares standing on the books of the company in name of Thomas Taylor.

3 shares standing on the books of the company in name of H. T. Weightman.

10 shares standing on the books of the company in name of Susan Williams.

It is therefore resolved by the president and directors of the Washington Bridge Company, that the said shares of stock, and each of the said shares, are, and is hereby, forfeited for the use of the said company.

Truly copied from the record book of the company, 19th March, 1834.

JNO. H. REILY,
Clerk and treasurer.

Whereupon, on motion of the said defendant, by its solicitor aforesaid, it was ruled by the court here that the said complainants enter a general replication to the answer aforesaid, or, in default thereof, that the said bill be dismissed.

Thereupon the said cause was regularly continued at rules until the first Monday of January, 1836, when the said complainants, by their said solicitors aforesaid, filed in court here the following replication, to wit:

Replication.

These complainants, saving and reserving to themselves all and all manner of exceptions, &c., for replication to the answer of said defendants, saith: That they do and will aver, maintain and prove, their said bill to be true and sufficient in the law to be answered unto by said defendants, and that the answer is very uncertain, evasive, and insufficient in the law to be replied unto by the repliants, without that, *ss.*

R. S. COXE,
Sol. for Complainants.

Thereupon the said cause was regularly continued at rules until the first Monday of July, A. D. 1836, when the said defendants,

by their solicitor aforesaid, filed in the said cause the following interrogatories and depositions, to wit:

Interrogatories by Defendant.

WILLIAM STEWART, JAMES STEWART, JOHN GLENN, and others,
vs.
THE WASHINGTON BRIDGE COMPANY.

Interrogatory 1st. Are you or are you not, or have you or have you not been at any time, and when, the clerk and treasurer, or the clerk or treasurer, of the Washington Bridge Company; and have you now, or have you or have you not at any time, and when, had the possession and custody of the books and papers of the said company?

Int. 2d. Look at the defendants' exhibit No. 1, now shown to you. Is it or is it not in your handwriting, and is it or is it not a true copy of the by-law of the said company, as entered in their books? And have you or have you not compared the same with the original?

Int. 3d. Was or was not a large part of the Washington Bridge, which had been erected by the said company, broken up and carried away by the ice and flood, on or about the 23d of February, 1831, or at any other and what time; and was it or was it not necessary, in order to repair the same, that the said company should call upon the stockholders to pay an instalment of ten dollars on each share of the stock? How many instalments had been previously called for by the company; and what part of the whole capital stock of two hundred thousand dollars had been actually paid in by the stockholders, and received by the company before the said 23d of February, 1831?

Int. 4th. Look at the defendants' exhibit No. 2, now shown to you. Is or is not the same in your handwriting? Is or is not the copy therein contained, of a certificate of a meeting of the Washington Bridge Company, held on the 8th of April, 1831, a true copy of the original certificate signed by D. D. Arden, chairman, and J. B. Ladd, secretary, and is or is not the said original in your possession? If yea, produce the same. Do you or do you not know the handwriting of the said D. D. Arden and the said J. B. Ladd; and are or are not their signatures thereto in their respective handwriting? Was you or was you not directed by the president of the said company to enter the same on their books as the proceedings of the said company; and did you or did you not so enter them? Was or was not the said meeting called by the board of directors of the said company, or a majority of the said board, and by the proprietors of one-third of the shares actually subscribed for? Is or is not the copy of the notice contained in the defendants' exhibit No. 2, a true copy of the notice of the said meeting

of the company of the 8th of April, 1831, as published; and was or was not the same published in the National Intelligencer, in the city of Washington, or in any other and what gazette, for three weeks successively, before the said 8th day of April, 1831, or otherwise; and when, and how long? Was or was not the said meeting of the said company held in the city of Washington on the said 8th day of April, 1831, as stated in the said certificate of the said D. D. Arden and the said J. B. Ladd? Is or is not the said D. D. Arden now living? If not, when did he die?

Int. 5th. Did or did not the president and directors of the said company borrow, or obtain by loan, on the credit of the said company, the moneys which they deemed necessary for repairing the bridge; and did they or did they not call for an instalment of ten dollars on each share, payable on the first Monday of May then next ensuing, or at any other time, and when?

Int. 6th. Look upon the defendants' exhibit No. 3 now shown to you. Is it or is it not in your handwriting, and is it or is it not a true copy of an advertisement published in the National Intelligencer, in Washington city, and the Phenix Gazette, in Alexandria, or in any other and what gazette or gazettes for 4 weeks, or any other and what period of time next following the 22d day of April, 1831, or any other and what day? And did or did not the said president and directors call for the said instalment in the manner stated in the said advertisement, and was or was not the said advertisement signed by you by order of the said president and directors?

Int. 7. Look upon the defendants' exhibits No. 4, 5, 6, and 7, with your certificates thereto annexed—are or are not the facts stated in your said certificates true as therein stated.

Int. 8. Look on the defendants' exhibit No. 8, now shown to you? Is it or is it not in your handwriting? And is it or is it not a true copy and statement of the proceedings of the president and directors of the Washington Bridge Company of the 21st of June, 1832, as entered upon the books of the said company.

WM. STEWART, JAS. STEWART, and others
vs.
THE BRIDGE COMPANY. } In chancery.

Deposition taken by consent.

Answer of John H. Reily, a witness sworn on the part of the defendants in the above entitled cause, to the questions propounded to him on the part of said defendants.

Answer of John H. Reily.

To the first he answers and says, I have been both clerk and treasurer of the said company for several years; and I had, during that time, and still have, the custody and possession of the books and papers of the said company.

To the 2d. It is in my handwriting, and is a true copy of the by-law of the said company as entered in their books, and I have compared it with the original.

To the 3d. A large part of the said bridge was broken up and carried away about the 23d day of February, 1831; and it was thought necessary by the said company, in order to repair it, that the said company should call upon the stockholders to pay an instalment of ten dollars on each share of the stock. I do not know how many instalments had been previously called for by the company, nor the amount of any or either of the previous instalments. Ninety-nine thousand six hundred dollars had been actually paid in by the stockholders, and received by the company, before the said 23d February, 1831, and at least ten or twelve years before.

To the fourth. Exhibit No. 2 is in my handwriting. It is the copy of a certificate of a meeting of the Washington Bridge Company, held on the 8th of April, 1831, signed by D. D. Arden, chairman, and J. B. Ladd, secretary. The original is in my possession, and I herewith produce the same. I know the handwriting of Daniel D. Arden, and also that of J. B. Ladd, and I believe the signature to the said paper to be their respective handwritings. I was directed by the president of the said company to enter the said certificate on their books as the proceedings of the said company, and I did so enter it. The said meeting was called by me by the direction of Dr. F. May, the president of the said company, but I do not know whether it was or was not ordered by the proprietors of one-third of the shares actually subscribed for. The copy of the notice contained in defendants' exhibit No. 2 is a true copy of the notice calling the meeting of the said company for the 8th April, 1831, as published. The said notice was published in the National Intelligencer, in the city of Washington, and in the Phœnix Gazette, in Alexandria. I do not know how long it was published. The said meeting was held in the city of Washington on the said 8th day of April, 1831, as stated in the said certificate of D. D. Arden and J. B. Ladd, but I was not myself present at the said meeting. D. D. Arden has been dead for several years.

To the 5th. The president and directors of the company did not borrow or obtain any money by loan on the credit of the said company, but they called for the payment of ten dollars upon each share, payable in ten equal monthly payments, as appears by the paper filed by the defendants, and marked as their exhibit No. 3.

To the 6th. Exhibit No. 3 is in my handwriting, and was made out by me to be published in the National Intelligencer in this city, and the Phœnix Gazette, of Alexandria, by order of the President of the said company. I do not know how long it was published, nor where. It is a call by the president and directors of the said instalment, and was signed by me as treasurer by order of the president of the said company.

To the 7th. The facts stated in certificates No. 4, 5, 6, and 7, are true to the best of my knowledge, recollection and belief.

To the 8th. Exhibit No. 8 is in my handwriting, and is a true copy and statement of the proceedings of the president and direc-

tors of the Washington Bridge Company of the 21st June, 1832, as entered by me on the books of the said company by the direction of its President. But I wish it to be understood that I never was present at any of the meetings of the said board, and that the proceedings were always kept by some member of the board, and handed to me for record.

JNO. H. REILY.

Cross-examination.

And being cross-examined on behalf of the complainants in said bill, the said witness says:

The annexed copy from the book of accounts of the said company subscribed by me, shows the sums paid, the persons paying, and the dates of payment by them respectively, made under and by virtue of the call required by the meeting of the 8th of April, 1831.

There was no interest called for or paid by the company to any of the stockholders upon the payments by them so made.

All the surplus funds of the company have been distributed and paid, excepting about thirty-six hundred and twelve dollars and ten cents, which has been invested in stock, and is held to await the determination of this suit. Mr. J. B. Ladd, who officiated as secretary of the meeting of the stockholders on the 8th of April, 1831, never was himself a stockholder in said company, but had the proxy of some one or more of the stockholders. There are no books or papers in my possession which will show the manner in which the instalments were formerly paid or called for.

JNO. H. REILY.

Agreed to be admitted in evidence without oath.

R. S. COXE,
for Complainants.
JOS. H. BRADLEY,
for Defendants.

Thereupon the said cause was regularly continued at rules until the fourth Monday of March, A. D. 1837. Whereupon, with the consent of the parties aforesaid, by their solicitors aforesaid, and by order of the court had thereon, the said cause was *is* set for hearing on the bill, answers and exhibits, depositions and general replication, and the said cause further continued until the fourth Monday of November, A. D. 1838, when the said bill, answer, &c., &c., being seen, heard, and read by the court, and the parties, by their solicitors, being heard, and the matter *be* fully understood, the court, after mature deliberation, made the following decree in the premises, to wit:

Decree.

STEWART and others
vs.
WASH'N BRIDGE COMPANY.

This cause having been set for hearing upon the bill, answer, general replication, exhibits, and evidence, and coming on to be heard and argued by counsel, it is, on this twenty-ninth day of November, in the year eighteen hundred and thirty-eight, after full consideration, ordered, decreed and adjudged, that the rights and interests of the complainants, and the other stockholders in said bill of complaint mentioned, and who have come in, or may come in, before the final determination of this cause, and procure themselves to be made parties to these proceedings, have not been, and were not, forfeited under and by virtue of the proceedings of said Bridge Company, stated and set forth in the said answer, and exhibits, and evidence, but that the same remain in full force and virtue, and that the said parties are respectively entitled to their proportion of the sum of twenty thousand dollars, mentioned and stated in said bill of complaint, as stockholders in said company; and that, in order to fix and adjust the said proportions or shares of said parties, there be first deducted the sum of $10,561 55, mentioned in said answer, being the sum advanced by certain stockholders, as therein mentioned, with interest thereon from the time the same was advanced to the time of the receipt of the said $20,000, being an average of nine months, for which said interest is to be calculated; also the sum of $568 25, being the amount of unclaimed dividends expended on the said bridge, with interest thereon from the time of said expenditure to the receipt of said $20,000, and that subject to such deductions; and, after the same shall have been made, the said complainants are respectively entitled to, and shall receive, their full share and proportion of the interest on the same, which shall have been earned and made of the said sums so due to them respectively pending this suit, under the investment made thereof by complainants.

And it is ordered, that other items claimed to be deducted be rejected, no evidence having been offered to show their character or their amount.

And it is further ordered, that the case be referred to the auditor, to state *and* account in conformity with the principles laid down in this decree.

By order of the court.

WILLIAM BRENT, *Clerk.*

Appeal prayed and granted to Sup. Ct. U. S.

Whereupon the said defendants, by their attorney aforesaid, prayed an appeal from the judgment and decree aforesaid, so as aforesaid rendered, to the Supreme Court of the United States, which was granted them.

And whereas, afterwards, to wit, on third day of April, in the year of our Lord one thousand eight hundred and forty, the said plaintiffs, by their solicitor aforesaid, in pursuance to the act of the Congress of the United States in such case made and provided, produces to the circuit court here the mandate of the Supreme Court of the United States, remitting the record and proceedings had before the said Supreme Court, between the parties aforesaid, in the words and of the tenor following, to wit, that is to say:

Mandate.

UNITED STATES OF AMERICA, *ss:*

The President of the United States of America, to the honorable the judges of the circuit court of the United States, for the District of Columbia, holden in and for the county of Washington, greeting:

Whereas, lately, in the circuit court of the United States, for the District of Columbia, before you, or some of you, in a cause between William Stewart, James Stewart and John Glenn, complainants, and the Washington Bridge Company, defendants, the decree of the said circuit court was in the following words, viz:

"This cause having been set for hearing upon the bill, answer, general replication, exhibits, and evidence, and coming on to be heard, and argued by counsel, it is, on this twenty-ninth day of November, in the year eighteen hundred and thirty-eight, after full consideration, ordered, decreed, and adjudged, that the rights and interests of the complainants, and the other stockholders in the said bill of complaint mentioned, and who have come in, or may come in before the final determination of this cause, and procure themselves to be made parties to these proceedings, have not been, and were not, forfeited under and by virtue of the proceedings of said Bridge Company stated and set forth in the said answer, and exhibits and evidence, but that the same remain in full force and virtue; and that said parties are respectively entitled to their proportion of the sum of twenty thousand dollars mentioned and stated in said bill of complaint as stockholders in said company; and that, in order to fix and adjust the said proportions or shares of said parties, there be first deducted the sum of $10,561 55 mentioned in said answer, being the sum advanced by certain stockholders, as therein mentioned, with interest thereon from the time the same was advanced to the time of the receipt of the said $20,000, being an average of nine months, for which said interest is to be calculated. Also, the sum of $568 25 being the amount of unclaimed dividends expended on the said bridge, with interest thereon from the time of said expenditure to the receipt of said $20,000, and that subject to such deductions, and after the same shall have been made, the said complainants are respectively entitled to, and shall

receive, their full share and proportion of the interest on the same, which shall have been earned and made of the said sums so due to them respectively pending this suit, under the investment made thereof by complainants.

And it is ordered that the other items claimed to be deducted be rejected, no evidence having been offered to show their character or amount.

And it is further ordered, that the case be referred to the auditor to state an account in conformity with the principles laid down in this decree, as by the inspection of the transcript of the record of the said circuit court, which was brought into the Supreme Court of the United States, by virtue of an appeal agreeably to the act of Congress in such case made and provided, fully and at large appears. And whereas, in the present term of January, in the year of our Lord one thousand eight hundred and forty, the said cause came on to be heard before the said Supreme Court, on the said transcript of the record, and was argued by counsel: on consideration whereof, it is decreed and ordered by this court, that the decree of the said circuit court, in this cause, be, and the same is hereby, affirmed with costs and damages at the rate of six per centum per annum; and that the said complainants recover against the said defendants sixty-eight dollars and three cents, for their costs herein expended, and have execution therefor.

Feb. 3*d.*—You, therefore, are hereby commanded that such execution and proceedings be had in said cause, as according to right and justice, and the laws of the United States, ought to be had, the said appeal notwithstanding.

Witness the honorable Roger B. Taney, chief justice of said Supreme Court, the second Monday of January, in the year of our Lord one thousand eight hundred and forty.

Costs of complainants.

Clerk	$48 03	Taxed by
Attorney	20 00	
	$68 03	

WM. THOS. CARROLL,
Clerk of Supreme Court United States.

Cause referred to auditor, and continued to November Term.

Whereupon, with the consent of the said parties by their solicitors aforesaid, and by order of the court here thereon to Joseph Forrest, esq., auditor of the court; thereupon the said cause was regularly continued at rules until the fourth Monday of November, one thousand eight hundred and forty-one.

At which mentioned fourth Monday of November, in the year of our Lord one thousand eight hundred and forty-one, comes again into the circuit court here, as well the said complainants by their solicitor aforesaid, as the said defendant by his said solicitor; whereupon the auditor made to the court here the following report and statement, to wit:

Auditor's Report.

Circuit Court, Washington county, D. C.

WM. STEWART, JOHN GLENN & AL
vs.
THE WASHINGTON BRIDGE CO. } In Chancery.

The undersigned auditor, to whom was referred the papers in this cause on the 29th of April, 1840, has had the same under examination, and after a full consideration of the same, begs leave to make the following report: That the amount of funds in the hands of Fred'k May, President and Treasurer of the Washington Bridge Co., including interest on Corporation stock received and to be received, on the 30th June, 1841, is $22,221 52. That the amount refunded the stockholders of 1519 shares, which they had advanced towards repairing the bridge, with interest thereon according to the decree; the amount of unclaimed dividends which had been expended for said repair, and also directed to be refunded with interest for nine months; for debt due from the Bridge Company including costs of suit; the trustee's commission, auditor's bill, &c., and the payment to said 1519 shareholders of 10 per cent. upon the cost of their stock, as per statement herewith submitted, amount to $18,991 11, leaving a balance in the trustee's hands of $3,222 41.

That the holders of the 473 shares, which were deemed by the company to have been forfeited, (but which the court decided were not forfeited) according to the cost of the same, amount to $20,749 17, ten per cent. on the same (being the dividend paid to the first mentioned stockholders) amounts to $2,074 91 as per statement B herewith, leaving a balance, after paying said amount, in the hands of the trustee of $1,147 50.

In ascertaining the cost of the shares to the present claimants, the auditor has taken pains, as far as possible, to ascertain the same. The principal claimants are John Glenn and the Messrs. Stewarts. In the case of Mr. Glenn, he states on oath, that the stock belongs to the estate of Robert Barry, and is held by him as trustee or administrator. Barry was an original subscriber. In the case of the Stewarts, they claim as having obtained it from D. Stewart's estate in the course of distribution, not as purchaser—D. Stewart was an original subscriber. In all other cases, the scale furnished from the President of the company of the current price of the stock at the periods of transfer, have been the sole guide by which to fix the value. Several of the stockholders on the list are known to be dead, and it is not known to the auditor who their representatives are; but in making a distribution of this fund, their rights ought to be preserved, and their fair dividend paid when demanded.

Doctor May, the trustee, claims $1,000 for his commission on the money received from the Treasury, $20,000, for the sale of the bridge. The charge has been objected to by some of the claim-

ants, and the auditor has reduced it to $500; if he has erred in this the court can correct it.

The amount of the unclaimed dividends used for repairing the bridge, $568 25, and nine months interest thereon, $25 57, making $593 82, has been in part paid, but a very considerable part, in all probability, never will be called for, as many of the persons who were entitled to it are dead, and some insolvent; their representatives knowing nothing of the small amount so many years due. The complainants, however, in the present cause, have no claim on the unclaimed money due to others.

As regards the disposition to be made of the balance which will remain in the hands of the trustee, ($1,147 50) after paying the stockholders 10 per cent., the auditor begs reference to his remarks on the general statement herewith.

Submitted by

15*th May*, 1841. JOSEPH FORREST, *Auditor.*

General statement.

General statement of the Washington Bridge Company's affairs, referred to in the auditor's report.

Washington Bridge Company, F. May, trustee, *Dr.*

For balance to the credit of the company in Bank Washington, 1st August, 1832 -	$290 20	
For amount received from the Treasury of the United States for the sale of the bridge 13th Aug., 1832 - - - - -	20,000 00	
For amount due from Patriotic Bank -	2 75	
For amount refunded by the Treasurer for error in account - - - -	10 00	
For sundry dividends received in corporation stock from 10th Oct., 1833, to 27th April, 1840, per account - - -	1,597 45	
For fractional parts of stock, per account -	12 12	
For sundry dividends on corporation stock from 31st March, 1840, till 30th June, 1841	309 00	
$4,120—5 quarters - - Carried forward.	$22,221 52	
Amount brought up - - -		$22,221 52

Supra. *Cr.*

By this sum refunded to stockholders who had advanced to repair the bridge previous to its being sold to the United States	$10,561 55
For interest on same by decree, 9 months -	475 27
Unclaimed dividends taken by the company and expended in repairing bridge -	568 25
Interest on same by decree, 9 months -	25 57

For this sum paid holders of 1,519 shares of stock, amounting to its cost, per account, 10 per cent. - - - -	$6,009 07	
For debts due, and costs of suit and expenses, per abstract A - - - -	624 87	
For amount due John H. Riley, per account, for clerkship, (to be paid) - -	116 25	
For F. May's commission. He charges 5 per cent. on $20,000—$1,000; the auditor thinks 2½ per cent. enough - -	500 00	
For auditor's bill (herewith) to be paid -	93 33	
For estimated additional cost in court -	25 00	
		18,999 11
Balance - - - -		$3,222 41
To be paid to the stockholders of 473 shares of stock, as per statement marked B, which the board of directors considered as forfeited, (the court having decided otherwise by their decree,) to put said stockholders on a par with others, 10 per cent. - -		2,074 91
Balance -		$1,147 50

in the hands of F. May, trustee, after payment of all costs and claims, and giving to each stockholder 10 per cent. as cost of his stock.

Now, as the stockholders of 1,519 shares of stock received 10 per cent. on the cost of their stock upwards of eight years ago, and the owners of the remaining shares (473) have never received any thing, and as paying them now the same per centage (10 per cent.) will leave in the hands of the trustee a balance of $1,147 50, a question arises—to whom ought it to be paid? Six per cent. per annum from the time the first mentioned stockholders received their money, to the time the others will receive theirs, will amount to the whole balance. If the court be of opinion that the auditor has erred in cutting down the commission charged by F. May, trustee, and that he ought to be allowed his full charge, then the balance in his hands will be reduced to $647 50 to be disposed of. But if the balance, as stated above, $1,147 50 be correct, and that amount is to be distributed among all the stockholders, pro rata, their proportions will be $14\frac{19}{20}$ per cent. The auditor however is of opinion that the whole amount of the balance, be it what it may, ought to be paid to the complainants, in order to put them on an equal footing with the other stockholders. Submitted by

15th MAY, 1841. JOSEPH FORREST, *Auditor.*

Exhibit A.—*Exhibit A, referred to in the foregoing statement.*

Debts and necessary expenses paid on account of the Washington Bridge Company.

14 Aug., 1832.	Hack-hire - - - -		$1 25
23 " "	Peter Force - - -		16 25